

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

\_\_\_\_\_  
ROMEO COSCIA

Plaintiff,

v.

SALVATORE CAPONE

Defendant.

CIVIL ACTION

NO. 02-3655 (JRP)

**PLAINTIFF'S MOTION TO DISMISS PURSUANT TO RULE 41**

1. On October 23, 2003, Judge Padova of this Court issued Letters Rogatory to the Ministers of Justice and Foreign Affairs in Italy seeking documents Plaintiff requires for trial.

2. To date, the Ministers of Justice and Foreign Affairs in Italy have not responded to these Letters Rogatory, and accordingly, Plaintiff cannot proceed to trial.

WHEREFORE, Plaintiff respectfully requests that this Court dismiss this case without prejudice pursuant to Rule 41.

Respectfully submitted,

**EIZEN FINEBURG & McCARTHY, P.C.**

Date: September 29, 2004

By: 

GARY J. McCARTHY, ESQUIRE  
JOHN N. SALLA, ESQUIRE  
JOSEPH M. ARMSTRONG, ESQUIRE  
*Attorneys for Plaintiff, Romeo Coscia*

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ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2004, it is hereby  
ORDERED that Plaintiff's Motion to Dismiss Pursuant to Rule 41 is GRANTED. The above  
matter is DISMISSED WITHOUT PREJUDICE.

BY THE COURT:

\_\_\_\_\_, J

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**CERTIFICATE OF SERVICE**

I, Joseph M. Armstrong, Esquire, hereby certify that on the date set forth below, I served on defense counsel via Facsimile and First Class Mail a true and correct copy of the foregoing Plaintiff's Motion to Dismiss Pursuant to Rule 41.

Date: September 29, 2004

  
Joseph M. Armstrong, Esquire